

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

PATRICK T. BURKE

Plaintiff,

-v.-

Civil Action No.
9:01-cv-1396 (GLS/DRH)

CAPTAIN SEITZ, Correctional Officer Captain
in Charge of Movement and Control; DOCTOR
BUTTARAZZI, Facility Doctor; CYNTHIA
ERVOLINA, Inmate Records; and JOSEPH
MCCOY, Superintendent, Cayuga Correctional
Facility

Defendant.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

PATRICK T. BURKE
Plaintiff Pro Se
The Rescue Mission
155 Gifford Street
Syracuse, New York 13202

FOR THE DEFENDANTS:

HON. ELIOT SPITZER
Attorney General for the
State of New York
The Capitol
Albany, New York 12224-0341

JAIME IRENE ROTH, ESQ.
Assistant Attorney General

GARY L. SHARPE,
U.S. DISTRICT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge David R. Homer, duly filed January 24, 2006. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge David R. Homer filed January 24, 2006 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that defendants' motion for summary judgment (Docket No. 51) be GRANTED as to all claims and all defendants, and it is further

ORDERED, that the Clerk of the Court is to enter judgment in favor of Defendants and close this case.

IT IS SO ORDERED

Dated: February 13, 2006
Albany, New York


Gary L. Sharpe
U.S. District Judge